

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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IN RE:

DEXTER MCKENZIE

Debtor.

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tmd3574/db
DECEMBER 14,2005
9:00 AM

Chapter 13
Case No: 105-34281-353

NOTICE OF MOTION

PLEASE TAKE NOTICE, that upon the within application, the Chapter 13 Trustee will move this court before the Honorable Jerome Feller, U.S. Bankruptcy Judge, at the United States Bankruptcy Court, 271 Cadman Plaza East, Brooklyn, New York, Courtroom 3554 on DECEMBER 14,2005, at 9:00 AM, or as soon thereafter as counsel can be heard, for an Order pursuant to 11 U.S.C. Section 1307(c) for cause, dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Responsive papers shall be filed with the Bankruptcy Court and served upon the Chapter 13 Trustee, Marianne DeRosa, Esq., no later than five (5) days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: Jericho, New York
December 1, 2005

/s/ Marianne DeRosa
MARIANNE DeROSA, TRUSTEE
100 JERICHO QUADRANGLE, SUITE 208
JERICHO, NY 11753
(516) 622-1340

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EASTERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13 105-34281-353

DEXTER MCKENZIE,
Debtor.

APPLICATION

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TO THE HONORABLE JEROME FELLER, U.S. BANKRUPTCY JUDGE:

MARIANNE DEROSA, Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor filed a petition under the provisions of 11 U.S.C. Chapter 13 on OCTOBER 15, 2005, and, thereafter, MARIANNE DEROSA was duly appointed and qualified as Trustee.

2. As of the date of this motion, the Debtor:

- a. failed to provide the Trustee with all mandatory disclosure documentation as set forth in E.D.N.Y. LBR 2003-1;
- b. appeared, but failed to be examined at the Section 341 Meeting of Creditors pursuant to 11 U.S.C. Section 343.

3. This is a default that is prejudicial to the rights of the creditors of the Debtor pursuant to 11 U.S.C. Section 1307(c)(1).

4. During the pendency of this bankruptcy estate, the Trustee has incurred costs and expenses in the ordinary course of administering this case and seeks reimbursement of \$150.00 to cover these expenses. Said sum to be deducted from the Debtor's net receipts, if any.

5. Each of the foregoing constitutes cause to dismiss this Chapter 13 case within meaning of 11 U.S.C. Section 1307(c)(1).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order dismissing this Chapter 13 case, and granting the Chapter 13 Trustee the sum of \$150.00 to be deducted from the Debtor's net receipts, if any, for administrative costs and expenses incurred during the pendency of this case, and for such other and further relief as may seem just and proper.

Dated: Jericho, New York
December 1, 2005

/s/ Marianne DeRosa
Marianne DeRosa, Trustee

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13 Case No: 105-34281-353

DEXTER MCKENZIE

CERTIFICATE OF SERVICE
BY MAIL

Debtor.

-----X

This is to certify that I, Dani M. Boyer, have this day served a true, accurate and correct copy of the within Notice of Motion and Application by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

DEXTER MCKENZIE
942 ROCKAWAY AVENUE
BROOKLYN, NY 11212

STEPHEN B. KASS, ESQ.
250 HEMPSTEAD AVENUE, 2ND FLR
MALVERNE, NY 11565

This December 1, 2005

/s/ Dani M. Boyer
Dani M. Boyer, Paralegal
Office of the Standing Chapter 13 Trustee
Marianne DeRosa, Esq.
100 Jericho Quadrangle, Suite 208
Jericho, New York 11753
(516) 622-1340

Index No: 105-34281-353
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NOTICE OF MOTION, APPLICATION
and
CERTIFICATE OF SERVICE

MARIANNE DeROSA, TRUSTEE
100 JERICO QUADRANGLE, SUITE 208
JERICO, NY 11753
(516) 622-1340
